

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Market Dominant Product Prices
Inbound Market Dominant Multi-Service Agreements
with Foreign Postal Operators
Singapore Post Limited—United States Postal Service
Bilateral Agreement (MC2010-35)
Negotiated Service Agreement

Docket No. R2012-1

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING RATE ADJUSTMENT
FOR BIALTERAL AGREEMENT WITH SINGAPORE POST AND
FUNCTIONALLY EQUIVALENT NEGOTIATED SERVICE AGREEMENT

(October 24, 2011)

The Public Representative hereby provides comments pursuant to Order No. 909.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of a Type 2 rate adjustment for inbound letter post entered with the Postal Service pursuant to an additional Inbound Market Dominant Multi-Service Agreement.² The Notice concerns a bilateral agreement with Singapore Post Limited (Singapore Post), which would establish service and set negotiated rates for delivery confirmation scanning of inbound letter post small packets. Notice at 1.

In Order No. 549, the Commission approved the Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 product, and included the Strategic Bilateral Agreement Between United States Postal Service and Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV (TNT Agreement) and the China Post Group—United States Postal Service Letter Post Bilateral Agreement (China Post

¹ PRC Order No. 909, Notice and Order Concerning Rate Adjustment for Bilateral Agreement with Singapore Post 2011 and Functionally Equivalent Negotiated Service Agreement, October 18, 2011.

² Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, October 14, 2011 (herein "Notice").

2010 Agreement) within the product.³ Subsequently, the Commission determined that bilateral agreements with HongKong Post (HongKong Post Agreement) and China Post Group (China Post 2011 Agreement) should be included within the Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 product.⁴

The Postal Service asserts that the Singapore Post Agreement is similar, and therefore functionally equivalent, to the China Post 2011 Agreement.⁵ Consequently, the Postal Service proposes to include the Singapore Post Agreement within the Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 (MC2010-35, R2010-5 and R2010-6) product. Notice at 2 and 8-9. The Postal Service also asserts that the negotiated rates in the Singapore Post Agreement represent an “improvement over default rates established under the Universal Postal Union (UPU) Acts for inbound letter-post items.” *Id.* at 1. The negotiated rates are intended to become effective on December 1, 2011. *Id.* at 3.

COMMENTS

The Public Representative has reviewed the Singapore Post Agreement and the supporting financial model filed under seal that accompanied the Postal Service’s Notice. Based upon that review, the Public Representative concludes that the Singapore Post Agreement is likely to improve the net financial position of the Postal Service or otherwise enhance the operational performance of the Postal Service during the contract period. In addition, the Public Representative concludes that the Singapore Post Agreement is functionally equivalent to the China Post 2011 Agreement.

³ See PRC Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreement, Docket Nos. MC2010-35, R2010-5 and R2010-6, September 30, 2010.

⁴ See PRC Order No. 700, Order Approving Rate Adjustment for HongKong Post–United States Postal Service Letter Post Bilateral Agreement Negotiated Service Agreement, Docket No. R2011-4, March 18, 2011; see also Order No. 871, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. R2011-7, September 23, 2011.

⁵ Notice at 2 and 8-9. The Postal Service notes that in Order No. 549, the Commission did not indicate whether the China Post 2010 Agreement or the TNT Agreement “would serve as the ‘baseline’ agreement for functional equivalence comparisons with future agreements.” *Id.*, at 9 n.11. In Order No. 871, the Commission stated that “[b]ecause the Postal Service has not identified a ‘baseline agreement,’ the current agreements collectively serve as the measure for functional equivalence.” The Postal Service states in its Notice that it considers comparison of the Singapore Post Agreement with the China Post 2011 Agreement to be “illuminating and appropriate.” Notice at 9 n.11.

Functional Equivalence. In its Notice the Postal Service identifies a number of differences between the Singapore Post Agreement and the China Post 2011 Agreement. The most important differences concern the duration and the services that are the subject of the Singapore Post Agreement as compared to the China Post 2011 Agreement. The term of the Singapore Post Agreement is one calendar year after the Effective Date of the agreement, while the term of the China Post 2011 Agreement is 15 month after the effective date of October 1, 2011.⁶ In addition, the Singapore Post Agreement concerns negotiated rates only for inbound letter post small packets with delivery scanning. Notice at 11. By contrast, the China Post 2011 Agreement concerns negotiated rates for all inbound letter post items, specifically, Air Letters and Cards, and All Other (LC/AO), Surface LC/AO and SAL LC/AO, as well as International Registered Mail service for inbound letter post and delivery scanning for inbound letter post small packets. Order No. 871 at 2. Other differences in the Singapore Post Agreement are included in Article 2, Oversight and Effective Date, concerning elimination of the requirement to negotiate a separate accord on Accounting Business Rules, changes to Article 10, Dispute Resolution, Article 11, Indemnification and Liability, and Article 13, Confidentiality Requirements, as a result of the negotiation between the parties, as well as identification of the differing signatories, changes to article numbers and references, and additional and minor wording changes. Notice at 9-11. In the Public Representative's view, these changes do not affect the similarity of the cost characteristics between the two agreements.⁷ Consequently, the Singapore Post Agreement is functionally equivalent to the China Post 2011 Agreement.

Financial Improvement. Under 39 U.S.C. § 3622(c)(10), the criteria for the Commission's review are whether the agreement (1) improves the net financial position of the Postal Service or enhances the performance of operational functions, (2) will not cause unreasonable harm to the marketplace, and (3) will be available on public and

⁶ Notice at 10; and Order No. 871 at 2-3.

⁷ In Docket No. R2011-7 (China Post 2011 Agreement), the Public Representative identified the requirement for future negotiations on a separate accord concerning Accounting Business Rules as a new condition that would affect the cost characteristics and therefore made it dissimilar to the China Post 2010 Agreement. See Public Representative Comments on Postal Service Notice Concerning Rate Adjustment for Bilateral Agreement with China Post 2011 and Functionally Equivalent Negotiated Service Agreement, Docket No. R2011-7, August 30, 2011. Such a requirement is not applicable with respect to the Singapore Post Agreement.

reasonable terms to similarly situated mailers. With respect to criterion (1), the negotiated rates for inbound letter post small packets with delivery scanning represent an improvement compared to the terminal dues rates established by the UPU for CY2012.⁸ Based upon the negotiated rates, the financial model indicates that the Singapore Post Agreement will generate unit revenue on projected volumes in excess of estimated unit attributable costs, resulting in a positive cost coverage during the term of the agreement. The Singapore Post Agreement should also make some improvement in the operational performance of the Postal Service. Notice at 4-5. With respect to criteria (2) and (3), the Postal Service makes reasonable arguments that they are not implicated by the inbound Singapore Post Agreement. Notice at 5-6.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁸ In the Excel file (Non-Public) Singapore_MD_IB_2011.10.05.xls, worksheet tab 10_Current_TDues_Rates, the headings for Columns [D] and [E] refer to "FY2011." It appears that the columns should be headed "CY2012," as the rates displayed in the columns are the CY2012 UPU terminal dues rates applicable to Singapore Post. See Universal Postal Convention, Article 28.8.3.